



R. Scott Thompson

Member of the Firm

Tel 973 597 2532

Fax 973 597 2533

sthompson@lowenstein.com

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VIA CM/ECF & FedEx

Honorable Esther Salas
United States District Judge
District of New Jersey
King Federal Building & Courthouse
50 Walnut Street
Newark, New Jersey 07101

Re: BanxCorp v. Bankrate, Inc., Civil Action No. 07-3398 (ES)

Dear Judge Salas:

I write, with apologies, to respond to the letter sent to Your Honor by Mordechai Lipkis, Esq., counsel for the plaintiff BanxCorp in this case.

Unfortunately, submissions to the Court on behalf of the plaintiff like that sent by Mr. Lipkis have become the norm in this case. I prefer not to respond to a letter of that kind, and I will not do so in the future. However, because we have not appeared before Your Honor in this case, I felt it necessary to respond Mr. Lipkis' insinuation that there is something inappropriate about my request to reschedule the August 9, 2011 in-person conference before Your Honor.

As lead counsel, I believe it is important to be present for an appearance before a federal judge, particularly the first appearance before a District Judge in a case in which the plaintiff is seeking \$500 million in damages. For that reason, I respectfully requested that the Court reschedule the appearance scheduled for August 9, 2011.

On the other hand, it is neither important nor economically efficient for me to attend all depositions. My colleagues intended to conduct the deposition of Roy Adams and any portion of the deposition of Norbert Mehl scheduled in my absence. At the time of the request to schedule depositions, we were attempting in good faith to meet an August 31, 2011 fact discovery deadline.

On July 12, 2011, a new defendant was joined to this case at plaintiff's request. That defendant is still in the process of conducting paper discovery; we have a status conference scheduled with Magistrate Judge Arleo on July 21, 2011, at which time a new schedule for completion of fact discovery will be discussed. For what it is worth, it now appears unlikely that any depositions will take place during my absence because the new defendant is not ready to take depositions.

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I apologize again, both for my request that the appearance scheduled for August 9 be rescheduled, and for the unnecessary correspondence concerning that request. While our experience in this case suggests that it is likely that BanxCorp will continue to write to the Court with regularity, in the future we will only respond to substantive issues or if invited to respond by the Court.

Respectfully submitted,



R. Scott Thompson

cc: Mordechai Lipkis, Esq. (via ECF)
Lawrence Hersh, Esq. (via ECF)
Daniel Brown, Esq. (via ECF)